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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/319,222	08/23/1999	BJORN HEED	003300-570	2625

7590 11/29/2002

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EXAMINER

CHOW, DOON Y

ART UNIT	PAPER NUMBER
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2675

DATE MAILED: 11/29/2002

14

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

09/319,222

Applicant(s)

HEED ET AL.

Examiner

Dennis-Doon Chow

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 September 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21, 23-25, 27-29, 33, 38, and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura (5270810).

Regarding claims 21, 23, 25, 29 and 33, Nishimura discloses a viewing instrument comprising: an optical system for viewing objects and providing live images of the objects; a memory function to freeze a live image; control means for freezing the image; an electronic retinas; and a processing unit which connects to the retinas.

The viewing instrument is obviously a distance viewing instrument because the viewing instrument views the objects from a distant, even though the distant is a small distant.

Regarding claim 24, although, Nishimura does not explicitly disclose the use of a timer for controlling the time-interval of the freezing image, but using a timer for controlling a time-interval of a freezing image is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to use the known timer in Nishimura's instrument. By doing so, the timing of the freezing image can be automatically controlled.

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As to claim 27-28, 38 and 40, Nishimura does not disclose the use of two displays and two electronic retinas. However, using two displays and two electronic retinas in a viewing instrument is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to use two displays and two retinas because they provide better picture quality.

3. Claims 22, 26, 30-32, 34-37, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishimura as applied to claims 21, 23-25, 27-29, 33, 38, and 40 above, and further in view of Branson (5740801).

Nishimura does not disclose magnifying the frozen image.

Branson, in the same field, discloses a viewing instrument comprising means magnifying an image.

It would have been obvious to one of ordinary skill in the art to use Branson's magnifying means in Nishimura's instrument to magnify the frozen image. By doing so, the frozen image can be seen more clear.

### ***Response to Arguments***

4. Applicant's arguments filed September 16, 2002 have been fully considered but they are not persuasive.

Applicant argues that Nishimura does not teach the distance viewing instrument. The examiner disagrees because Nishimura's viewing instrument broadly read on the claimed distance viewing instrument. All the claimed distance viewing instrument

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required is a viewing instrument which views an object from a distant regardless length of the distant. This feature is obviously met by Nishimura's viewing instrument.

As to applicant's arguments with regarding to the timer for controlling the time interval of the freezing image, and the two displays and two electronic retinas, Satake (5317399, cited by the examiner ) and Schoolman (4395731, cited by the applicant) are used here to show that these features are well known features. Satake teaches a timer for controlling the time interval of the freezing image, and Schoolman teaches the use of two displays and two electronic retinas.

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dennis-Doon Chow whose telephone number is 703-305-4398. The examiner can normally be reached on 8:30-6:00, Alternate Monday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Saras can be reached on 703-305-9720. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

D. Chow  
November 26, 2002

  
**DENNIS-DOON CHOW**  
**PRIMARY EXAMINER**